



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,494	04/06/2005	Olaf Such	DE 020217	4785
24737 7590 10/16/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
NAQI, SHARICK				
ART UNIT		PAPER NUMBER		
3769				
MAIL DATE		DELIVERY MODE		
10/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,494

Applicant(s)

SUCH ET AL.

Examiner

Sharick Naqi

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

The Examiner acknowledges the amendment filed on July 3, 2008. The Examiner has withdrawn allowability of the claims previously indicated as allowable based on the new rejections presented below.

Allowable Subject Matter

The indicated allowability of claims 1-4, 16, 18, and 21 are withdrawn in view of the newly discovered reference(s) to Funke US Patent No. 4, 987,897. Rejections based on the newly cited reference(s) follow.

Claim Objections

Claim 6 is objected to because of the following informalities: lines 11-12 of claim 6 state, “wherein control unit is configured to” and the Examiner suggests that it be corrected to “wherein the control unit is configured to” because a control unit was already mentioned earlier in the claim language. Appropriate correction is required.

Note to Applicant Regarding Claim Interpretation

The word “for” and the phrases “configured to”, “adapted to” and “arranged to” in the claim(s) may be interpreted as intended use. Intended use/functional language does not require that reference specifically teach the intended use of the element. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the

Art Unit: 3736

intended use, then it meets the claim. The Examiner has placed the word “for” and the phrases “configured to”, “adapted to” and “arranged to” in italics, see below, for those instances where this interpretation applies.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 10 states, “wherein the trigger signal is arranged to have a duty cycle of less than 0.1% of the signal representative of the monitored physiological condition.” However, the Examiner is unable to find support in the original disclosure for this limitation.

Claims 11 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 11 states, “wherein upon receipt of the

trigger signal, the control unit is configured to perform a dedicated wakeup sequence." However, the Examiner is unable to find support in the original disclosure for this limitation. Claim 12 is rejected based on its dependence on claim 11.

Claims 12 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 12 and 17 mention that a "dedicated wake-up sequence includes turning on of an RF-Link that is otherwise always in an off-state." However, the Examiner is unable to find support in the original disclosure for this entire limitation. Page 5, lines 23-26 discuss that the initiation of the RF-link is performed only after the trigger signal is received by the biosensors and decoded by the processing unit. However, this still leaves open the possibility that two trigger signals could be received very close together such that the RF-link would still be on based on the first trigger signal at the time when the consequent trigger signal is received. Therefore, although the original disclosure supports the part of the limitation that "dedicated wake-up sequence includes turning on of an RF-Link", the disclosure does not support that the "RF-Link . . . is otherwise always in an off-state."

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner cannot discern the metes and bounds of the phrase “substantially a same bandwidth as the first signal” because in the case of analog signals, which can be mathematically viewed as functions of time, bandwidth is the width, measured in hertz, of the frequency range in which the signal’s Fourier transform is nonzero and this range of nonzero amplitude may be very broad.

Claims 12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 12 and 17 mention that a “dedicated wake-up sequence includes turning on of an RF-Link that is otherwise always in an off-state.” It appears possible that if two consecutive dedicated wake-up sequences were to be initiated close together or in an overlapping manner, the RF link may already be on thus making it untrue that the RF link is otherwise “always in an off-state.” Therefore the claim is unclear because the RF-Link is apparently not “always in an off-state.”

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-8, 10, 11, 13, 16, 18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Funke US Patent No. 4, 987,897.

1. A system *for* monitoring a physiological condition of an individual, comprising a sensor *arranged to* pick up a first signal in a first mode of the system, said first signal being representative of said physiological condition and to forward said first signal to a signal processing unit (Figure 1, Implanted Pacemaker leads 20 and 24 capable of measuring ECG and sending data to CPU/memory that is equivalent to a signal processing unit),

a control unit *configured to* be selectively actuated to effect a system mode change and positioned remote from said signal processing unit, said control unit *configured to* generate a second signal *arranged to* be transmitted to said sensor and superimposed on the first signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7. External programmer is capable of being selectively actuated because it can program the pacemaker in a number of different ways. The signals from the external programmer are received via the same leads the pick up the ECG signals in the pacemaker, therefore the signals are capable of being transmitted to the sensor and superimposed on the first signal),

said signal processing unit being *arranged to* decode the second signal and to make the system enter into a second mode upon receipt of the second signal, wherein said

Art Unit: 3736

second signal is *arranged to* be received by said sensor as a disturbance of the first signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7. The CPU of the pacemaker is connected to an input/output unit that includes a decoder for decoding. The signals from the external programmer are received via the same leads the pick up the ECG signals in the pacemaker, therefore the signals are capable of being transmitted to the sensor and received as a disturbance of the first signal).

2. The system according to claim 1, wherein the control unit comprises an electrode to be arranged in contact with the individual's skin, said electrode being *arranged to* transmit the second signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

Claim 4 is rejected on substantially the same basis as claim 1.

5. The system according to claim 1, wherein the second signal has substantially a same bandwidth as the first signal, the amplitude of the second signal being at least one order of magnitude smaller than the amplitude of the first signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

6. A system *for* selectively actuating a personal monitoring system, said personal monitoring system being *arranged to* pick up a signal representative of a physiological condition of an individual, the system comprising

a control unit *configured to* control the personal monitoring system by a generation of a suitable trigger signal which is transmitted to said personal monitoring system, and *configured to* superimpose said trigger signal on the signal representative of the monitored physiological condition to control an operating mode of the monitoring system, wherein control unit is *configured to* produce the trigger signal as a disturbance of the signal representative of the monitored physiological condition (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7. External programmer is capable of generating a suitable trigger signal because it can program the pacemaker in a number of different ways. The signals from the external programmer are received via the same leads the pick up the ECG signals in the pacemaker, therefore the signals are capable of being transmitted to the sensor and superimposed as a disturbance on the first signal).

7. The system according to claim 6, wherein the control unit comprises an electrode to be arranged in a contact with the individual's skin, said electrode being arranged to transmit the trigger signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

8. The system according to claim 6, wherein the control unit comprises a user interface *arranged to* operate said control unit in a manual mode (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

10. The system according to claim 6, wherein the trigger signal is *arranged to* have a duty cycle of less than 0.1% of the signal representative of the monitored

physiological condition (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

11. The system according to claim 6, wherein upon receipt of the trigger signal, the control unit is *configured to* perform a dedicated wakeup sequence (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

13. The system according to claim 6, wherein the trigger signal is arranged as a dual-tone signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

16. The system according to claim 1, wherein upon receipt of the trigger signal, the signal processing unit is *configured to* perform a dedicated wakeup sequence (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

18. The system according to claim 1, wherein the second signal is arranged as a dual-tone signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7).

21. A system for monitoring a physiological condition of an individual, comprising:

a sensor *configured to* pick up a first signal in a first mode of the system, the first signal being representative of the physiological condition of the individual (Figure 1,

Art Unit: 3736

Implanted Pacemaker leads 20 and 24 capable of measuring ECG and sending data to CPU/memory that is equivalent to a signal processing unit);

a signal processing unit, wherein the sensor is *configured to* forward the first signal to the signal processing unit (Figure 1, Implanted Pacemaker leads 20 and 24 capable of measuring ECG and sending data to CPU/memory that is equivalent to a signal processing unit); and

a control unit *configured to* be selectively actuated to effect a system mode change and positioned remote from the signal processing unit, the control unit *configured to* generate and transmit a second signal to the sensor superimposed on the first signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7. External programmer is capable of being selectively actuated because it can program the pacemaker in a number of different ways. The signals from the external programmer are received via the same leads the pick up the ECG signals in the pacemaker, therefore the signals are capable of being transmitted to the sensor and superimposed on the first signal),

the signal processing unit being *configured to* decode the second signal and to initiate the system entering into a second mode based upon receipt of the second signal by the sensor, wherein the second signal is *configured to* be received by the sensor as a disturbance of the first signal (Figure 1, column 2, lines 47-65, column 3, lines 40-62, columns 6 and 7. The CPU of the pacemaker is connected to an input/output unit that includes a decoder for decoding. The signals from the external programmer are received via the same leads the pick up the ECG signals in the pacemaker, therefore the signals are

Art Unit: 3736

capable of being transmitted to the sensor and received as a disturbance of the first signal).

Claims 1-9, 11-12, 16-17 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Rode et al. US Patent No. 6,315,719 (hereinafter Rode).

1. A system *for* monitoring a physiological condition of an individual, comprising a sensor (sensor unit) *arranged to* pick up a first signal in a first mode of the system, said first signal being representative of said physiological condition and to forward said first signal to a signal processing unit (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20),

a control unit (Body transceiver) *configured to* be selectively actuated to effect a system mode change and positioned remote from said signal processing unit, said control unit *configured to* generate a second signal *arranged to* be transmitted to said sensor and superimposed on the first signal (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20, column 7, lines 48-60. Body transceiver in connection with data logger and ground based hospital is capable of being selectively actuated to send a particular query or polling signal to the sensor unit via the body that can cause reprogramming/program switching that are respectively equivalent to a second signal and a system mode change. The sensor picks up electrical signals from the body therefore the query or polling signal sent via the body is also capable of being picked up by the sensor along with the electrical physiological signals, i.e. superimposed on the physiological signals),

said signal processing unit being *arranged to* decode the second signal and to make the system enter into a second mode upon receipt of the second signal, wherein said

second signal is *arranged to* be received by said sensor as a disturbance of the first signal (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20, column 7, lines 48-60. Particular query or polling signal sent to the sensor unit via the body can cause reprogramming/program switching in the microchip of the sensor unit that are respectively equivalent to a second signal and a second mode, the sensor unit is capable of decoding the signal in order for the reprogramming/program switching to take place. The sensor picks up electrical signals from the body therefore the query or polling signal sent via the body is also capable of being picked up by the sensor along with the electrical physiological signals, i.e. as a disturbance of the physiological signal).

2. The system according to claim 1, wherein the control unit comprises an electrode to be arranged in contact with the individual's skin, said electrode being *arranged to* transmit the second signal (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20, column 7, lines 48-60).

3. The system according to claim 2, wherein the system further comprises an RF - link arranged to establish a wireless communication to a remote base unit, the second signal being a trigger signal for the RF-link to perform a predetermined operation (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines 1-16 and lines 48-60).

Claim 4 is rejected on substantially the same basis as claim 1.

Claim 5 is rejected on substantially the same basis as claim 1.

6. A system *for* selectively actuating a personal monitoring system, said personal monitoring system being *arranged to* pick up a signal representative of a physiological condition of an individual, the system comprising

a control unit *configured to* control the personal monitoring system by a generation of a suitable trigger signal which is transmitted to said personal monitoring system, and *configured to* superimpose said trigger signal on the signal representative of the monitored physiological condition to control an operating mode of the monitoring system, wherein control unit is *configured to* produce the trigger signal as a disturbance of the signal representative of the monitored physiological condition (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20, column 7, lines 48-60. Body transceiver in connection with data logger and ground based hospital is capable of sending a particular query or polling signal to the sensor unit via the body that can cause reprogramming/program switching that are respectively equivalent to trigger signal and controlling a mode change. The sensor picks up electrical signals from the body therefore the query or polling signal sent via the body is also capable of being picked up by the sensor along with the electrical physiological signals, i.e. superimposed as a disturbance on the physiological signals),

7. The system according to claim 6, wherein the control unit comprises an electrode to be arranged in a contact with the individual's skin, said electrode being

Art Unit: 3736

arranged to transmit the trigger signal (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines 1-16 and lines 48-60).

8. The system according to claim 6, wherein the control unit comprises a user interface *arranged to* operate said control unit in a manual mode (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines -16 and lines 48-60).

9. The system according to Claim 8, wherein the control unit comprises a data input port capable of being actuated and a display (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines -16 and lines 48-60).

11. The system according to claim 6, wherein upon receipt of the trigger signal, the control unit is *configured to* perform a dedicated wakeup sequence (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines -16 and lines 48-60).

12. The system according to claim 11, wherein the dedicated wake-up sequence includes turning on of an RF-link that is otherwise always in an off-state (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines -16 and lines 48-60).

Art Unit: 3736

16. The system according to claim 1, wherein upon receipt of the trigger signal, the signal processing unit is *configured to* perform a dedicated wakeup sequence (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines -16 and lines 48-60).

17. The system according to claim 16, wherein the dedicated wake-up sequence includes turning on of an RF-link that is otherwise always in an off-state (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20 and lines 42-67, column 7, lines -16 and lines 48-60).

21. A system for monitoring a physiological condition of an individual, comprising:

a sensor *configured to* pick up a first signal in a first mode of the system, the first signal being representative of the physiological condition of the individual (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20);

a signal processing unit, wherein the sensor is *configured to* forward the first signal to the signal processing unit (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20); and

a control unit *configured to* be selectively actuated to effect a system mode change and positioned remote from the signal processing unit, the control unit *configured to* generate and transmit a second signal to the sensor superimposed on the first signal (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20, column 7, lines 48-60. Body transceiver in connection with data logger and ground based hospital is capable

Art Unit: 3736

of being selectively actuated to send a particular query or polling signal to the sensor unit via the body that can cause reprogramming/program switching that are respectively equivalent to a second signal and a system mode change. The sensor picks up electrical signals from the body therefore the query or polling signal sent via the body is also capable of being picked up by the sensor along with the electrical physiological signals, i.e. superimposed on the physiological signals),

the signal processing unit being *configured* to decode the second signal and to initiate the system entering into a second mode based upon receipt of the second signal by the sensor, wherein the second signal is *configured* to be received by the sensor as a disturbance of the first signal (Column 2, line 39-59, column 5, lines 54-67, column 6, lines 1-20, column 7, lines 48-60. Particular query or polling signal sent to the sensor unit via the body can cause reprogramming/program switching in the microchip of the sensor unit that are respectively equivalent to a second signal and a second mode, the sensor unit is capable of decoding the signal in order for the reprogramming/program switching to take place. The sensor picks up electrical signals from the body therefore the query or polling signal sent via the body is also capable of being picked up by the sensor along with the electrical physiological signals, i.e. as a disturbance of the physiological signal).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3736

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 14-15 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Funke as applied to claims 13 and 18 above.

In regards to claims 14 and 15, Funke does not explicitly disclose that the dual-tone signal is arranged as a substantially 29.5 Hz continuous wave and 22.5 Hz on-off keyed signal or a substantially 129.5 Hz continuous wave and 122.5 Hz on-off keyed signal. However, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to set the signal as a substantially 29.5 Hz continuous wave and 22.5 Hz on-off keyed signal or a substantially 129.5 Hz continuous wave and 122.5 Hz on-off keyed signal because Applicant had not disclosed that these exact settings provided an advantage, are used for a particular purpose, or solved a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well using a 30KHz signal at 200mV amplitude because it would still enable programming signals to be safely sent to a sensing device without affecting its function (Funke column 11, lines 31-57) as required by the invention.

Claims 19 and 20 are rejected using substantially the same reasoning as used in the rejection of claims 14 and 15 above.

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharick Naqi whose telephone number is (571)272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry M. Johnson III can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. N./
Examiner, Art Unit 3769

/Michael C. Astorino/
Primary Examiner, Art Unit 3769

October 14, 2008